

**REMARKS**

By this amendment, claims 1-4, 6-7, 9-12, 14-15, 18-19, and 22 have been amended. Claims 1-24 are pending in the application. Applicant reserves the right to pursue the original claims and other claims in this and other applications.

Claims 1-24 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The claims have been amended to address the concerns raised in the Office Action.

The limitation of "a first rotation mode" finds support both in the summary of the invention and in the claims as originally filed, and is used within the specification with an embodiment which includes the specific example of "speed". In FIG. 6 of the specification, at the "N" branch of decision step S3, and step S4. The accompanying description on page 16, ln. 16-24 recites that "the controller 13 further checks whether the disc is rotating at a speed suitable for the storing and reproducing of the user's request (S3). If the disc is not rotating at a speed corresponding to the speed of storage and reproduction designated by the user (N branch of S3), the controller 13 changes the rotating speed of the spindle motor 4 through the rotation control unit 10 (S4)" (emphasis added). Although the Office Action asserts that "NO determination if a first mode is suitable for recording/reproducing is found" (emphasis in original), Applicant respectfully submits that the decision step S3 makes such a determination, as described above. Applicant respectfully requests that the rejection be withdrawn.

Claims 1, 8, 9, and 16-18 stand rejected under 35 U.S.C. §102(b) as being anticipated by Hashimoto (US 6,172,955). This rejection is respectfully traversed.

Claims 1, 9, and 18 recite, *inter alia*, "background-formatting the recording medium in a first rotation mode suitable for the background-formatting, ... receiving a

user request for writing user data ...; determining whether the first rotation mode is suitable for the storing and reproducing of the user's request; [and] if the first rotation mode is suitable for the storing and reproducing of the user's request, changing from the first rotating mode to a second rotating mode and writing the user data to the recording medium at the second rotating mode" (emphasis added). Applicant respectfully submits that Hashimoto does not disclose these limitations.

To the contrary, Hashimoto discloses that "if it is determined ... that a request for recording is sent ..., the formatting operation is temporarily stopped so as to record a user data packet. After the recording of the user data packet ..., the routine proceeds." Col 8, ln. 42-49. Hashimoto is silent with respect to recording speeds for recording user data. Nor does Hashimoto disclose a step of determining that the formatting mode is not suitable for recording user data. Applicant respectfully submits that Hashimoto does not disclose a step of determining whether the first rotation mode is suitable for the storing and reproducing of the user's request, and if the first rotation mode is not suitable for the storing and reproducing of the user's request, changing from the first rotating mode to a second rotating mode as recited in claims 1, 9, and 18.

The Office Action at page 4, lines 12-19 includes a paragraph of text that appears to be a quotation from Hashimoto. However, this text does not appear at all in Hashimoto. The quotation appears to be in error.

Nor is such a limitation inherent, as Hashimoto further discloses "data corresponding to about 74 minutes can be recorded on a CD-RW. Thus, it takes about 40 minutes to complete a recording of data including the TOC even if the recording is performed at a double recording speed." Col. 2, ln. 34-37 (emphasis added). Only one rotation speed is disclosed, a double recording speed. In context with the mention of 74 minutes being recordable on the disk, the double speed is twice a real-time speed (40

minutes being about half of 74 minutes). There is no mention at all of using multiple rotation speeds or modes or "determining that the first rotation mode is not suitable."

Prior art systems would record data at whatever speed was used by the system when recording was requested, which could result in data being improperly recorded.

The Office Action contends that changing the speed is inherent to recording in Hashimoto. However, the material quoted in the Office Action does not appear in Hashimoto, either in the indicated location, or anywhere else. The quotation of appears to be in error. As stated above, the only reference to any speed is "recording is performed at a double recording speed." Col. 2, ln. 35-37 (emphasis added). The double speed is used for the entire recording of data, and there is no inherent change in speed.

Since Hashimoto does not disclose all the recited limitations, claims 1, 9, and 18 are not anticipated by Hashimoto. Claims 8 and 16-17 depend, respectively, from claims 1 and 9, and are patentable at least for the reasons mentioned above.

Although the Office Action did not list claims 21 and 23-24 as rejected under 35 U.S.C. §102(b) as being anticipated by Hashimoto, it should be noted that Hashimoto discloses only CD, CD-R, and CD-RW recording mediums. Col. 1, ln. 17-18. Therefore, Applicant respectfully submits that Hashimoto does not disclose a DVD+RW recording medium, as recited in claims 21 and 23-24.

Applicant respectfully requests that the 35 U.S.C. § 102(b) rejection of claims 1, 8, 9, 16-18, 21, and 23-24 be withdrawn.

Claims 2, 10, 19-20, and 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto (US 6,172,955) in view of Horie (JP 2000-011380). This

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rejection is respectfully traversed. Claims 2 and 10 depend, respectively, from claims 1 and 9, and are patentable at least for the reasons mentioned above. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claims 2 and 10 be withdrawn.

Claims 3-4 and 11-12 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto in view of Shirane (JP 07-262692). This rejection is respectfully traversed. Claims 3-4 and 11-12 depend, respectively, from claims 1 and 9, and are patentable at least for the reasons mentioned above. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claims 3-4 and 11-12 be withdrawn.

Claims 5-7 and 13-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto in view of Seamons et al. (US 4,954,327). This rejection is respectfully traversed. Claims 5-7 and 13-15 depend, respectively, from claims 1 and 9, and are patentable at least for the reasons mentioned above. Applicant respectfully requests that the 35 U.S.C. § 103(a) rejection of claims 5-7 and 13-15 be withdrawn.

In view of the above, Applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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